SBCivil Writ Petition No.120/2004

Khayali Ram
v.
State of Rajasthan

Date of Order :: 15th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Varun Goyal, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By this petition for writ a challenge is given to the validity, propriety and correctness of the judgment dated 7.8.2003 passed by the Board of Revenue for Rajasthan, Ajmer rejecting the review petition preferred by the petitioner to review the judgment dated 24.8.1976 passed in Appeal No.208/76/Ceiling/Ganganagar by the board.

The facts necessary to be noticed for adjudication of present writ petition are that the Authorised Officer, Hanumangarh by an order dated 7.11.1975 declared 9.17 bighas of land in excess to the agricultural land holding limits with the petitioner. An appeal giving challenge to the order dated 7.11.1975 was also dismissed by the Collector, Sriganganagar by an order dated 20.2.1976. While giving challenge to the order dated 7.11.1975 it was urged by the petitioner before the Collector, Sriganganagar that on 1.1.1973 his family was consisting of eight members but the Authorised Officer

erroneously had not taken into consideration her unmarried daughter Savitri as a member of his family. It is relevant to note that on 7.11.1975, the day on which the Authorised Officer decided the ceiling case pertaining to the petitioner, Smt. Savitri was not living and, therefore, a death certificate was produced before him by the petitioner certifying 22.12.1973 as the date of death of Smt. Savitri. The Authorised Officer held that the death certificate produced by the petitioner does not bear confidence and, therefore, treated Smt. Savitri died prior to 1.1.1973. The Collector, Sriganganagar affirmed the finding given by the Authorised Officer and the same was also maintained by the Board of Revenue with little modification about the area for land require to be resumed by the State.

The petitioner preferred the review petition before the Board of Revenue, Ajmer which is subject matter of instant petition for writ in the year 2001 stating therein that in pursuant to the order dated 20.2.1976 passed by the Collector, Sriganganagar criminal proceedings were initiated against the person who issued death certificate showing 22.12.1973 as a date of death of Smt. Savitri and a court of competent jurisdiction discharged the person against whom criminal proceedings were initiated and also the Sub Divisional Officer, Hanumangarh found the death certificate a genuine document, therefore, he has

claimed to review the judgment dated 24.8.1976. The Board of Revenue by its judgment dated 7.8.2003 rejected the review petition holding as under:-

> "After having heard both the counsels, I am of the view that the review petition is not fit for admission. The counsel for the applicant tried to misguide the court by arguing that the S.D.O., Hanumangarh has in the enquiry found that the death certificate was correct: whereas certified copy of the notesheet of S.D.O., Hanumangarh dated 19.4.2001 clearly reads that enquiry is no longer required because of the decision by the Munsif court in the year 1977. The notesheet by the S.D.O. Concerned also leads to the suspicion as to what was the need for the S.D.O. To file the case in the year 2001 after a gap of 25 years. He has not commented at all on the veracity of the death certificate nor given any finding on it. He has mentioned that no further enquiry is required in the matter because the ceiling case has already been closed and Khyali Ram could not get any relief by the certificate even after the finding of the civil court. As such, the review petition is rejected."

While giving challenge to the judgment impugned it is contended by counsel for the petitioner that the Board of Revenue erroneously held that the Sub Divisional Officer has not commented at all on the veracity of death certificate and also not given any finding on it. According to counsel for the petitioner

the Sub Divisional Officer, Hanumangarh found the certificate concerned as a genuine document.

Heard counsel for the parties.

The order, whereby the person who issued death certificate was discharged from criminal charges, is placed on record as Anx.4, from reading of it, it is clear that the author of the certificate was discharged from criminal charges only on the count that there was no evidence to prove any mensrea behind issuing the certificate. The Sub Divisional Officer also by order dated 19.4.2001 refused to make inquiry about the certificate on the count that the petitioner failed to get any benefit on basis of certificate concerned. The Sub Divisional Officer no where found the certificate concerned as a genuine document. The Board of Revenue, therefore, rightly held that the Sub Divisional Officer has not commented about the veracity of the death certificate.

In view of it I do no find any error in the judgment impugned dated 7.8.2003. The writ petition, therefore, is having no merit and the same is dismissed.

(GOVIND MATHUR),J.

kkm/ps.